



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 1128

PRINTER'S NO: 1331

PRIME SPONSOR: Preston

FISCAL IMPACT SUMMARY	FY 2008/09	FY 2009/10
Expenditure Increase/(Decrease):		
Restricted Revenue Account—Public Utilities	\$0	\$0
Estimated Revenue Increase/(Decrease):		
General Fund	\$0	\$0 ^a
Natural Gas Pipeline Safety Enforcement Grant (Federal Allocation)	\$0	\$4,112 ^b

^aAlthough the bill increases civil penalties allowing for increased revenue, historical data suggest increased revenue will be unlikely.

^bPotential increase assuming Congressional appropriations remain the same and the U.S. Pipeline and Hazardous Materials Safety Administration follows through with its pipeline safety scoring system for allocation to the states.

OVERVIEW:

Summary

This bill amends §3301(c) of Title 66 (Public Utilities), Pa.C.S., on civil penalties for gas pipeline safety violations. Current law allows the Public Utility Commission (PUC) discretion in fixing such penalties up to maximum amounts. This bill would increase the maximum amounts from \$10,000 to \$100,000 for each day each violation exists and from \$500,000 to \$1,000,000 for any related series of violations. This change would bring Pennsylvania in compliance with Federal standards.

Background on Natural Gas Pipeline Safety Enforcement

The United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) administers a natural gas pipeline safety program. The PUC is certified by OPS to enforce federal regulations pursuant to the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481). The PUC is charged with the duty to inspect facilities and investigate all incidents and accidents. Also, the Federal law requires all regulated utilities to adhere to safety standards in storage and distribution of natural gas.

The Public Utility Commission receives funding from OPS to enforce the regulations of Public Law 90-481, which is additionally appropriated by the General Assembly pursuant to Act 117 of 1976. For Fiscal Year (FY) 2008/09, the PUC Budget Act (Act 37A of July 8, 2008) provides a Federal appropriation of \$630,000 for this line item. The Governor's Executive Budget for FY 2009/10 recommends a federal appropriation of \$1,501,000.

OPS allocated a total \$17,300,398 to all states in calendar year (CY) 2008 and \$27,545,274 in CY 2009. This was a 59% increase. The CY 2010 allocations will not be made until April or May of 2010. The amount to be distributed will be contingent upon Congressional appropriations for Federal Fiscal Year (FFY) 2009/10, which begins October 1, 2009.

States are required to provide matching funds. The state match to this federal program is part of the general government operations appropriation to the PUC. For FY 2008/09, Act37A appropriates \$52,162,000 for the Public Utility Commission, and the Governor's Executive Budget proposal for FY 2009/10 is \$52,581,000. The PUC Request for Approval of Federal Funds (RAFF) form for FY 2009/10 shows state matching funds of \$2,029,000, which is included as part of the \$52,581,000 budget request. The PUC is funded out of a restricted revenue account based on assessments on entities that the PUC regulates. The PUC employs eight natural gas inspectors and one supervisor.

Federal funding may be up to eighty-percent of a state's natural gas safety enforcement budget, contingent upon available funds. For CY 2008, the maximum amount funded by the Federal government for any state was 39.771% of the budget. Pennsylvania received only 38.975% because it received 98 out of 100 possible points on an OPS scoring system.

For CY 2009, the Pipeline Safety 2009 Natural Gas Scoring Document, issued by the Pipeline and Hazardous Materials Safety Administration, gave Pennsylvania 97 points out of 100 possible points and allocated \$797,932 to Pennsylvania for pipeline safety enforcement, representing 59.19% with a total approved budget of \$1,348,186. The maximum percent of funding a state could have received was 61.02%. The scoring system allows for a two point deduction if a state does not have a maximum civil penalty of \$100,000 per day per incident, up to \$1,000,000 per related series of violations. The deduction is reduced to just one point if steps were taken by the state to adopt legislation to comply with the federal standards.

Based on this scoring system, Pennsylvania should have received a one point deduction in CY 2009 because §3301(c) does not meet federal standards and House Bill 1128 was introduced to bring the civil penalty into compliance. OPS, however, did not implement the point deduction. The PUC is concerned, however, that OPS will not be as gracious next time and will deduct a point for CY 2010 if §3301(c) is not so amended.

Civil Penalties Assessed and Collected

Since 2006, the Public Utility Commission collected \$5,500 in civil penalties from three settlements pursuant to §3301(c). These amounts are deposited in the General Fund pursuant to §3315. The three settlements are as follows:

- (1) UGI Utilities, Docket No. M-2008-2036549, of which UGI agreed to deposit \$40,000 in its hardship fund to help low income customers but no civil penalty was paid pursuant to §3301(c).
- (2) UGI Utilities, Docket No. C-20066664, of which \$5,000 was collected in civil penalties pursuant to §3301(c).
- (3) National Fuel Gas Distribution Company, Docket No. M-2008-2037613, of which \$500 was collected pursuant to §3301(c).

The last time civil penalties in §3301(c) were increased was June 15, 1992, pursuant to Act 27 of April 16, 1992.

Effective Date

The effective date is sixty days.

ANALYSIS:

Increase in Federal Funds

Starting in Calendar Year (CY) 2010, the U.S. Office of Pipeline Safety (OPS), according to the PUC, may start deducting a point on Pennsylvania's pipeline safety enforcement score for being out of compliance with civil penalties. This would have the impact of reducing Federal funds for natural gas pipeline safety enforcement. House Bill 1128, therefore, has the potential to increase Pennsylvania's allocation.

The Federal Pipeline Safety program allocates funds to participating states on a calendar year basis, and Pennsylvania had not been penalized in its allocation for CY 2009, thus there is no impact for the first six months in FY 2009/10.

Assuming the same level of funding in CY 2010 as in CY 2009, Pennsylvania's allocation could drop from \$797,932 to \$789,709 if OPS follows through with its scoring system that allows for up to two points to be deducted for having civil penalties out of compliance with Federal standards. This estimate was calculated using the percent funding difference between state scores of 97 points and 96 points, which is what Pennsylvania's score would be reduced to (assuming all else is held constant) if it is still out of compliance with the federal standard for civil penalties. Because this difference of \$8,223 would be for the entire CY 2010, this note allocates half the difference, i.e., \$4,112, to FY 2009/10. For future fiscal years, the revenue increase would be the full \$8,223. These are estimates, of course, subject to the assumptions described above, which will vary depending on the total amount appropriated by Congress and decisions made by OPS, including whether OPS will implement its scoring point deduction for non-compliant civil penalties in future years.

Increase in Revenue from Civil Penalties

Civil penalty revenue pursuant to §3301(c) has been sporadic and insignificant. No revenue was collected in 2006 or 2007. In the current fiscal year, only \$5,500 has been collected from two out of three cases settled. In neither case where the PUC imposed penalties did it impose the maximum amount. Based on historical experience, therefore, it is unlikely that increasing the maximum allowable civil penalties will result in any additional revenue to the General Fund.

Other Administrative Costs

This bill imposes no administrative costs on the Public Utility Commission beyond its current operations.

Sources

The Public Utility Commission and the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety were helpful in providing information used in this fiscal note.

PREPARED BY: Erik Randolph, Senior Analyst
House Appropriations Committee, (D)

DATE: June 1, 2009

General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*